

Decision 02-12-016 December 5, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company (U 39 E) and the Los Osos Community Services District for an Order Under Section 851 of the California Public Utilities Code to Sell and Convey Streetlight Facilities.

Application 01-01-039  
(Filed January 25, 2001)

**O P I N I O N**

**1. Summary**

Pacific Gas and Electric Company (PG&E) petitions the Commission to modify Decision (D.) 01-05-026 to extend the effective period for sale of streetlight facilities to the Los Osos Community Services District (the District) for an additional year. The request is unopposed. The petition is granted.

**2. Background**

On January 25, 2001, PG&E filed this application for an order under Pub. Util. Code § 851 to sell and convey streetlight facilities to the District.

In D.01-05-026, the Commission approved the sale, relieved PG&E of the public duties of owning, operating and maintaining the streetlight system once the sale and conveyance were complete, and authorized the disposition of the gain-on-sale of the facilities to PG&E's shareholders subject to the requirement that PG&E file the final cost figures for the facilities within 90 days of the purchase date of the transaction.

In the decision, the Commission ordered that PG&E's authority to sell and convey the streetlight facilities would expire if that authority was not exercised within one year. PG&E's authority in D.01-05-026 expired on May 8, 2002.

PG&E states that it was unable to exercise its authority granted in the decision within the effective period because of formerly unresolved issues related to the sale of utility property, including streetlights, that were pending before the United States Bankruptcy Court. PG&E is a debtor in possession in a Chapter 11 reorganization proceeding pending before the Bankruptcy Court for the Northern District of California.

On October 15, 2001, the Bankruptcy Court issued an order granting PG&E's motion for authority to sell or encumber utility property within certain parameters. However, according to PG&E, it was not clear from the order that PG&E was authorized to sell streetlights according to the valuation methodology typically used in the sale of such facilities. Normally, PG&E establishes the fair market value of streetlights by determining the "Replacement Cost New Less Depreciation" (RCNLD), not by appraisal or competitive bidding methods. PG&E requested authority to continue using the RCNLD method of valuing streetlights, and the Bankruptcy Court approved that method in a separate order on May 13, 2002.

In this petition, PG&E asks the Commission to modify D.01-05-026 to extend the date within which the streetlight sale must take place by one year.

### **3. Discussion**

We will grant the petition.

All of the benefits to the public and all of the reasons that supported the Commission's approval in D.01-05-026 remain. Among them: The buyer offered a price for the facilities that is greater than RCNLD; the buyer has the right to

exercise its power of eminent domain to acquire the streetlight facilities; the sale process saves parties the costs of litigation and condemnation proceedings; the buyer may lower the costs to serve its citizens by owning, operating and maintaining the facilities itself; ratepayers have not contributed capital to the streetlight system; and PG&E's customers will not suffer a decline in service as a result of the sale.

The petition for modification comes more than a year after D.01-05-026 was issued, but the delay has been justified by the time required to obtain clarification of Bankruptcy Court orders.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is waived.

#### **4. Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Glen Walker is the assigned Administrative Law Judge in this proceeding.

#### **Findings of Fact**

1. In D.01-05-026, the Commission authorized PG&E to sell and convey streetlight facilities to the District.
2. In the decision, the Commission ordered that PG&E's authority to sell and convey the streetlight facilities would expire if that authority was not exercised within one year.
3. PG&E's Bankruptcy Court proceedings caused a delay in the sale of the streetlight facilities, but that delay has now been resolved.
4. PG&E asks the Commission to modify D.01-05-026 to extend the date within which the streetlight sale must take place by one year.

**Conclusion of Law**

The petition for modification of D.01-05-025 should be granted.

**O R D E R**

**IT IS ORDERED** that:

1. Ordering Paragraph 3 of Decision 01-05-026 is modified to read as follows:  
“3. The authority granted herein shall expire if not exercised within two years of the date of this order.”
2. Application 01-01-039 is closed.

This order is effective today.

Dated December 5, 2002, at San Francisco, California.

HENRY M. DUQUE  
CARL W. WOOD  
GEOFFREY F. BROWN  
MICHAEL R. PEEVEY  
Commissioners

President Loretta M. Lynch, being  
necessarily absent, did not participate.